



House of Representatives

File No. 656

General Assembly

February Session, 2000

(Reprint of File No. 419)

Substitute House Bill No. 5580
As Amended by House Amendment
Schedules "A" and "B"

Approved by the Legislative Commissioner
April 19, 2000

An Act Concerning Violation Of Tree Cutting Practices.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (b) of section 23-65 of the general statutes is
2 repealed and the following is substituted in lieu thereof:

3 (b) Any person, firm or corporation, other than a tree warden or
4 [his] deputy [, which wilfully] tree warden, who removes, prunes,
5 injures or defaces any shrub or ornamental or shade tree, within the
6 limits of a public way or grounds, without the legal right or written
7 permission of the town tree warden, the borough tree warden, the city
8 forester, the Commissioner of Transportation, the Department of
9 Public Utility Control or other authority having jurisdiction, shall be
10 fined not more than [one hundred dollars for each offense and,] the
11 appraised value of the shrub or tree and shall be liable civilly for
12 damages in any action brought by the property owner or the authority
13 having jurisdiction affected thereby. The appraised value shall be
14 determined by the town tree warden, the borough tree warden, the
15 city forester, the Commissioner of Transportation, the Department of

16 Public Utility Control or other authority having jurisdiction and shall
17 be determined in accordance with regulations adopted by the
18 Commissioner of Environmental Protection. The commissioner shall
19 adopt regulations, in accordance with the provisions of chapter 54, to
20 develop guidelines for such plant appraisal. The regulations may
21 incorporate by reference the latest revision of The Guide for Plant
22 Appraisal, as published by the International Society of Arboriculture,
23 Urbana, Illinois. Until such time as regulations are adopted, appraisals
24 may be made in accordance with said Guide for Plant Appraisal.

25 Sec. 2. Section 23-59 of the general statutes is repealed and the
26 following is substituted in lieu thereof:

27 The town or borough tree warden shall have the care and control of
28 all trees and shrubs in whole or in part within the limits of any public
29 road or grounds and within the limits of his town or borough, except
30 those along state highways under the control of the Commissioner of
31 Transportation and except those in public parks or grounds which are
32 under the jurisdiction of park commissioners, and of these [he] the tree
33 warden shall take the care and control if so requested in writing by the
34 park commissioners. Such care and control shall extend to such limbs,
35 roots or parts of trees and shrubs as extend or overhang the limits of
36 any such public road or grounds. [He] The tree warden shall expend
37 all funds appropriated for the setting out, care and maintenance of
38 such trees and shrubs. [He] The tree warden shall enforce all
39 provisions of law for the preservation of such trees and shrubs and of
40 roadside beauty. [He] The tree warden shall remove or cause to be
41 removed all illegally erected signs or advertisements, placed upon
42 poles, trees or other objects within any public road or place under [his]
43 the tree warden's jurisdiction. [He] The tree warden may prescribe
44 such regulations for the care and preservation of such trees and shrubs
45 as [he] the tree warden deems expedient and may provide therein for a
46 reasonable fine [not exceeding ninety dollars in any one case] for the
47 violation of such regulations; and such regulations, when approved by
48 the selectmen or borough warden and posted on a public signpost in
49 the town or borough, if any, or at some other exterior place near the

50 office of the town or borough clerk, shall have the force and effect of
51 town or borough ordinances. Whenever, in the opinion of the tree
52 warden, the public safety demands the removal or pruning of any tree
53 or shrub under [his] the tree warden's control, [he] the tree warden
54 may cause such tree or shrub to be removed or pruned at the expense
55 of the town or borough and the selectmen or borough warden shall
56 order paid to the person performing such work such reasonable
57 compensation therefor as may be determined and approved in writing
58 by the tree warden. Unless the condition of such tree or shrub
59 constitutes an immediate public hazard, [he] the tree warden shall, at
60 least [five] ten days before such removal or pruning, post thereon a
61 suitable notice stating [his] the tree warden's intention to remove or
62 prune such tree or shrub. If any person, firm or corporation objects to
63 such removal or pruning, [he or it] such person, firm or corporation
64 may appeal to the tree warden in writing, who shall hold a public
65 hearing at some suitable time and place after giving reasonable notice
66 of such hearing to all persons known to be interested therein and
67 posting a notice thereof on such tree or shrub. Within three days after
68 such hearing, the tree warden shall render [his] a decision granting or
69 denying the application, and the party aggrieved by such decision
70 may, within ten days, appeal therefrom to the superior court for the
71 judicial district within which such town or borough is located. The tree
72 warden may, with the approval of the selectmen or borough warden,
73 remove any trees or other plants within the limits of public highways
74 or grounds under [his] the tree warden's jurisdiction [, which] that are
75 particularly obnoxious as hosts of insect or fungus pests.

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact: Potential Minimal Revenue Gain and Minimal Cost

Affected Agencies: Departments of Environmental Protection, Transportation, Public Utility Control and Judicial

Municipal Impact: Minimal

Explanation

State Impact:

The change in the fine for tree cutting violations from a fine of up to \$100 to the appraised value of the trees is anticipated to minimally increase revenue. The change in fines for violations of regulations is also anticipated to have a minimal impact. In FY 00, there were a total of 5 offenses resulting in \$150 in fines.

Requiring the Department of Environmental Protection to adopt regulations for plan appraisals is anticipated to minimally increase current staff duties within resources. The regulations can incorporate by reference the latest version of the Guide for Plant Appraisal, as published by the International Society of Arboriculture.

Any increase in the workloads of the Department of Transportation (DOT) or Public Utility Control (DPUC) due to the tree appraisals is anticipated to be minimal and within resources.

Municipal Impact:

The increase in workload to a municipal tree warden, forester, etc. due to tree appraisals is anticipated to be minimal and within municipal resources.

House “A” minimally increases DEP’s workload due to regulations and potentially minimally increases the workloads of DPUC and DOT and municipalities due to tree appraisals. Additional changes do not change the impact from the underlying bill.

House “B” exempts people who harm a tree within their legal rights from the fine and civil disability and does not change the fiscal impact from the underlying bill.

OLR Amended Bill Analysis

sHB 5580 (as amended by House "A" and "B")*

AN ACT CONCERNING VIOLATION OF TREE CUTTING PRACTICES.**SUMMARY:**

This bill expands the penalties for illegally harming a tree or shrub in a public area or way. It also increases, from five to ten days, the amount of notice a tree warden must provide before pruning or removing a tree in his jurisdiction.

*House Amendment "A" (1) deletes a provision in the bill that allowed the relevant authority to revoke an offender's development permit if the tree damage or removal was related to the development, (2) requires the Department of Environmental Protection (DEP) to adopt regulations on the valuation of trees and shrubs, and (3) increases the amount of notice a tree warden must provide before pruning or removing a tree, rather than decreasing the amount of time to appeal his decision.

*House Amendment "B" exempts people who harm a tree within their legal rights from the fine and civil liability.

EFFECTIVE DATE: October 1, 2000

PENALTIES***Fines and Civil Penalties***

Current law subjects anyone, other than a tree warden or his deputy, who willfully removes, prunes, injures, or defaces a shrub or ornamental or shade tree in a public area without proper authorization to fine of up to \$100 per offense. The bill eliminates the requirement that the violation be willful and sets the fine at the appraised value of the tree or shrub as determined by the local tree warden or forester, the departments of Transportation or Public Utility Control, or other appropriate authority. The appraisal must be made in accordance with

regulations that the DEP must adopt. The regulations may incorporate by reference the latest edition of *The Guide for Plant Appraisal*, published by the International Society of Arboriculture. Until the regulations are adopted, appraisals may be made in accordance with this guide.

By law, a tree warden may adopt regulations regarding the care and preservation of trees and shrubs along town roads. The bill removes the \$90 cap on fines for violating such regulations and instead requires that the fines be reasonable. The law establishes a notice and public hearing process for the tree warden to prune or remove such trees for public safety. The bill increases, from five to 10 days, the minimum time between the posting of the notice and the removal or pruning of the tree.

By law, the affected property owner can sue the offender for damages. The bill also gives the authority having jurisdiction over the tree or shrub this right. By law, permission to harm a tree or shrub can be issued by the tree warden, forester, the Department of Transportation, the Department of Public Utility Control, or other authority having jurisdiction.

The bill exempts a person who harms a tree or shrub within his legal rights from the fine and civil liability.

BACKGROUND

Legislative History

On April 7, the House referred the bill to the Planning and Development Committee, which reported it favorably unchanged on April 11.

COMMITTEE ACTION

Environment Committee

Joint Favorable Substitute Change of Reference

Yea 22 Nay 2

Judiciary Committee

Joint Favorable Report

Yea 40 Nay 0

Planning and Development Committee

Joint Favorable Report

Yea 16 Nay 0